

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, April 1, 2003

Division Two

A097737 -- Hillsboro Properties v. Public Utilities Commission; Robert Hambly et al., R.P.I.

A098327 -- Western Manufactured Housing Community Association v. Public Utilities Commission; Robert Hambly et al., R.P.I.

The PUC's decision is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A095337 -- The People v. Richard Hodges.

A100072 -- In re Richard Hodges, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Five

A094900 -- The People v. Christopher White.

A096512 -- The People v. Jason E. Fishbain.

Order Modifying Opinion and Certifying Opinion for Partial Publication
The Court: It is ordered that the opinion filed herein on February 27, 2003, be modified as follows: (See order.) There is no change in the judgment. The opinion in the above-entitled matter filed on February 23, 2003, was not certified for partial publication in the Official Reports. For good cause it now appears that the opinion should be partially published in the Official Reports and it so ordered. Simons, Acting P.J. (Certified for Partial Publication.)

Wednesday, April 2, 2003

Division One

A095311 -- The People v. Jeffrey Allen Galbraith, et al.

By the Court: Appellant Richardson's petition for rehearing is denied. The denial of Richardson's habeas corpus petition was without prejudice to his filing a new petition in the superior court. If that new petition makes a sufficient showing of facts outside the record on appeal which - if true - may entitle Richardson to relief, the superior court will hold an evidentiary hearing to enable Richardson to develop those facts. Marchiano, P.J.

A094550 -- Redevelopment Agency of the City of Oakland v. Edward L. Martin, et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A094645 -- The People v. Larry Davis.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A096846 -- C.J.A. Corporation v. Berkeley Conference Center et al.

The trial court's order is affirmed. Respondents shall recover their costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A096814 -- C.J.A. Corporation v. Transaction Financial Corporation, et al.

The order awarding fees is reversed. CJA shall recover its costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Thursday, April 3, 2003

Division Two

A098615 -- Siofra Byrne et al. v. Villa Pompei Vineyards et al.

The judgment is affirmed. The request for sanctions for filing a frivolous appeal is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A101096 -- In re Joshua H., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Kimberly H.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [precluding further challenge to order by petition in any subsequent appeal].) The temporary stay of the section 366.26 hearing is lifted. Our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A097905 -- Linda Phillion, et al. v. Lonza AG, et al., Marianne O'Keefe, et al.

We affirm. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Partial Publication.)

Division Three

A100572 -- The People v. Francisco Chavarria Rodriguez.

The judgment is affirmed, and the matter is remanded for the trial court to determine appellant's presentence credits. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Five

A098461 -- Robert Abbott v. CBSJ Financial Corp.

The judgment of dismissal is affirmed. CBSJ is awarded its costs on this appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Thursday, April 3, 2003 (continued)

A097363 -- The People v. Rickersian Simon.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

Friday, April 4, 2003

Division One

A098757 -- The People v. Luther Robinson.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A100750 -- The People v. Mitchell Lynn Bacom.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

A100465 -- In re April H., A minor. Social Services Agency v. Carol H.

By the Court: Appellant Carol H.'s attorney filed a letter with this court on February 24, 2003, indicating there are no arguable issues. Appellant Carol H. has failed to respond to our letter of February 25, 2003 giving her the opportunity to state any issues she feels should be reviewed on appeal. The appeal is therefore dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.) Kline, P.J.

A100199 -- Bear-Dog Hoffman v. Jack Boujaklian.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

A100835 -- Julian Lafayette v. County of Humboldt.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a)(1) of the California Rules of Court, the appeal is dismissed. Kline, P.J.

Friday, April 4, 2003 (continued)

Division Four

A100084 -- The People v. Brent E. Mandolph.

The order is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Division Five

A101583 -- In re Stephanie B. et al., Persons Coming Under the Juvenile Court Law. Wendy M. v. The Superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.

The order to show cause is discharged, and the petition for extraordinary writ review and request for stay are denied on their merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (I).) As the section 366.26 hearing is set for April 30, 2003, we order that our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b).) Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A097722 -- The People v. Charitie Lovee Hennig.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A099878 -- The People v. Jametrius M. Taylor.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A098153 -- The People v. Victor M. Villasenor.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

Monday, April 7, 2003

Division Two

A102025 -- Ginbineh Tessema Ayele v. Kaiser Foundation Health Plan, Inc., et al.

By the Court: Appellant Ginbineh Tessema Ayele purports to appeal from the trial court's October 21, 2002 order denying a motion for relief from a prior order granting respondents' petition to compel arbitration. The challenged ruling is not appealable. (See *State Farm Fire & Casualty v. Hardin* (1989) 211 Cal.App.3d 501, 506 [order granting a petition to compel arbitration is not appealable but is reviewable on appeal from a subsequent judgment confirming an arbitration award].) Accordingly, the above-referenced appeal is dismissed. Kline, P.J. (Not for Publication.)

A101955 -- Peter P. Nghiem v. Adastra Systems Corporation et al.

By the Court: Appellant Peter P. Nghiem purports to appeal from a January 29, 2003 interlocutory order denying his motion to compel and imposing monetary sanctions in the amount of \$1,000. The challenged order is not immediately appealable. (See *Datig v. Dove Books, Inc.* (1999) 73 Cal.App.4th 964, 984 [order denying motion to compel]; Code Civ. Proc., § 904.1, subd. (b) [sanctions orders of \$5,000 or less].) Accordingly, the above-referenced appeal is dismissed. Kline, P.J.

A097173 -- The People v. Harold Lloyd Rogers.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Monday, April 7, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Corrigan, J., Parrilli, J., Pollak, J., and I. Calanoc, Deputy Clerk.	
A097973	In re the Marriage of KATHERINE and ROBERT CHRISTENSEN. Robert Christensen, v. Katherine Christensen. McGuiness, P.J. announced that the panel for this case is comprised of Pollak, J., Corrigan, J. and McGuiness, P.J. Cause called and argued by Jack Burstein, counsel for appellant and Robert Roth, counsel for respondent. Cause ordered submitted. Corrigan, J. left the bench after this case.
A097887	Robert M. Wedge v. Glen William Davis.
A098149	Robert M. Wedge v. Ofiaro Building and Engineering Construction. The panel is comprised of McGuiness, P.J., Parrilli, J. and Pollak, J. Cause called and argued by Priscilla Slocum, counsel for appellants and Katie Wine, counsel for respondent. Cause ordered submitted.
COURT ADJOURNED	

Monday, April 07, 2003 (continued)

Division Four

A098152 -- The People v. Richard Che Hoffman.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J.
(Not for Publication.)

A099271 -- In re Jayln J., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Leon J.

The order is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.
(Not for Publication.)

Tuesday, April 8, 2003

Division One

A100235 -- Marie Johnson v. Theresa Marie Brombacher.

The judgment is affirmed. Respondent is awarded her costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A093759 -- The People v. Donald Barker.

By the Court: The petition for rehearing is denied. (Justice Pollak would grant the petition for rehearing). McGuiness, P.J.

A096742 -- Friends of Westhaven and Trinidad v. County of Humboldt et al.

Because Moss's application for a litigation stay was made after his tentative map expired, the application was not timely. For this reason, summary judgment was improperly granted and the judgment is reversed. Friends shall recover its costs on appeal. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication.)

A100478 -- The People v. Richard Allen Matthes.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, April 8, 2003

The Court convened at 9:30 a.m. at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kay, P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Arnold Stamps, Bailiff.

A099061 Allan M. Berland et al.
A100046 v.
 Ralph I. Miller et al.
Causes called. Herbert W. Yanowitz argued on behalf of appellants Berland et al. Kenneth Hollenbeck argued for respondents. Causes submitted.

A098515 Insurance Commissioner of the State of California
 v.
 HIH America Compensation & Liability Insurance
Cause called. Raymond A. Greenberg argued for appellant Superior Access Insurance Company. David Lew argued for respondent. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Sepulveda, J. and Rivera, J. to Kay, P.J., Reardon, J. and Sepulveda, J.

A101580 Robert P.
 v.
 Contra Costa County Superior Court
Cause called. James Fishel argued for petitioner Robert P. Jacqueline Y. Woods argued for respondent. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A098389 Emilio Guerrero
 v.
 Jimeno Rodriguez
Cause called. Sheila Reid argued for appellant Guerrero. Arthur Brunwasser argued for respondent. Cause submitted.

The Court adjourned at 10:31 a.m.

Tuesday, April 8, 2003 (continued)

Division Five

A098988 -- The People v. Charles Pratt.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J.,
Gemello, J. (Not for Publication.)

Wednesday, April 9, 2003

Division One

A099348 -- The People v. Robert Arthur Garcia, Jr.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J.,
Swager, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, April 9, 2003

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

- A100485 The People,
 v.
 Miguel Rafael Cancero Espinoza.
Cause called and argued by Ozro William Childs, counsel for appellant,
and Kelly M. Croxton, counsel for respondent. Cause ordered submitted.
- A094445 The People,
 v.
 Teresa Renee Nelson.
Cause called and argued by J. Courtney Shevelson, counsel for appellant,
via teleconference, and George F. Hindall, III, counsel for respondent.
Cause ordered submitted.
- A097670 In re the Estate of Norman O. Jenssen.
 KQED, Inc., et al.,
 v.
 Marky Lynn Quayle.
Cause called and argued by Tony J. Tanke, counsel for appellant, and
Michael McNaughton, counsel for respondents. Cause ordered submitted.
- A099784 In re Marriage of Hadley and Levine.
 Clair Hadley,
 v.
 William Howard Levine.
Cause called and argued by Robert A. Roth, counsel for appellant, and
Bernard N. Wolf, counsel for respondent. Cause ordered submitted.

A098415 Stefan E. Cheresnik, et al.,
v.
City and County of San Francisco.
Cause called and argued by Stephen R. McCutcheon, counsel for
appellants, and Teresa L. Stricker, counsel for respondents. Cause ordered
submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Wednesday, April 9, 2003

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and F. Abad, Deputy Clerk.

- A097213 The People,
 v.
 Fred Anthony Montoya.
Cause called and argued by Paul Kleven, counsel for appellant, and Ayana Cuevas, counsel for respondent. Cause ordered submitted.
- A097319 Rodolfo Velasquez, et al.,
 v.
 Juan Jose Tellechea, et al.
Cause called and argued by Allen Sowle, counsel for appellant, and Janet Boessenecker, counsel for respondent.
- A097110 Bette Cossman, et al.,
 v.
 Moog Automotive, et al.
Cause called and argued by Harry Wartnick, counsel for appellant, David Rice, counsel for respondent Daimler Chrysler Corp., and David Gifford, counsel for respondent Pneumo Abex Corp. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench for the remainder of the session.

A090520 Thomas Mitchell, et al.,
 v.
 Holly Sugar Corp.
 Cause called and argued by Harry Wartnick, counsel for appellant, and
 Deborah Lindblom, counsel for respondent. Cause ordered submitted.

A098118 Friends of the Eel River, et al.,
 v.
 Sonoma County Water Agency.
 Cause called and argued by Stephan Volker, counsel for appellant, and
 Steven Woodside, counsel for respondent. Cause ordered submitted.

Court recessed until 9:00am, Thursday, April 10, 2003.

Wednesday, April 9, 2003 (continued)

Division Two

A097007 -- Laura Dodge v. Leslie L. Titus et al.

The judgment is affirmed. Respondents' motion to dismiss the appeal and for sanctions is denied. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A098907 -- White McMahon Potter v. Diane Schoenrock.

The judgment is affirmed as to the causes of action for open book account and account stated. The judgment is reversed as to the causes of action for breach of contract and for quantum meruit, and the matter is remanded for further proceedings on those claims. The parties shall bear their own costs on appeal. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A097973 -- In re the Marriage of Katherine and Robert Christensen.

The judgment is affirmed. The motion for sanctions is denied. Katherine shall recover her costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, April 9, 2003 (continued)

A101711 -- In re Randall G., a Person Coming Under the Juvenile Court Law. Patricia G. v. The Superior Court of Contra Costa County; Contra Costa County Children and Family Services, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for May 21, 2003, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A097887, A098149 -- Robert M. Wedge v. Glen William Davis et al.

The order granting a new trial is affirmed. Plaintiff shall recover his costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

A096955 -- In re Michael A., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services v. Michael A.

The order is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A098896 -- The People v. Robert David Baird.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A097431 -- The People v. Chili Willie.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, April 10, 2003

Division One

A097523 -- The People v. Lewis Jenkins.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A101400 -- In re Lewis Jenkins, On Habeas Corpus.

The petition for habeas corpus is therefore summarily denied. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A099596 -- In re Demetrius S., a Person Coming Under the Juvenile Court Law. The People v. Demetrius S.

Accordingly, we remand the case for the limited purpose of having the juvenile court exercise its discretion and to expressly declare on the record whether the assault by means of force likely to cause great bodily injury offense is a felony or misdemeanor. If the offense is declared a misdemeanor, the juvenile court shall recalculate the maximum theoretical period of confinement. In all other respects, the judgment is affirmed. Swager We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A097102, A097232 -- Stephen Weissberg v. Rene Peinado, et al.

CROSS APPEAL

As we find that evidence does not sustain the award of compensatory damages, we necessarily find against Weissberg on his cross appeal.

The award of compensatory damages is reversed and the matter is remanded to the trial court to award compensatory damages in the amount of \$186,519, plus interest, in accordance with Civil Code section 3287. The award of punitive damages is reversed and the matter is remanded for a new trial on that issue only, provided that if Weissberg, within 30 days of our remittitur, files with the clerk of the trial court and serves on Peinado, a written consent to a reduction of the punitive damages award to \$172,000, the punitive damages award will be modified to award Weissberg punitive damages in that amount, and as so modified, affirmed. Peinado is awarded his costs on appeal. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Thursday, April 10, 2003 (continued)

A098662 -- The People v. Shadrick Peter Williams.

The order dismissing the case based on the denial of the suppression motion is reversed. The cause is remanded for the reinstatement of the criminal proceedings against defendant. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, April 10, 2003

The Court reconvened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A093091 The People,
 v.
 David Antonio DeLaSantos
Cause called and argued by Richard Such, counsel for appellant, and
Jeremy Friedlander, counsel for respondent. Cause ordered submitted.

A098794 Frederick Giordano,
 v.
 Brett Jensen, et al.
Cause called and argued by Robert J. Kahn, counsel for appellant, and
Thomas G. Best, counsel for respondent. Cause ordered submitted.

A099839 In re Marriage of Gaughen and Cordi.
 Roger D. Cordi,
 v.
 Kathleen Gaughen.
Cause called and argued by William H. McPherson, counsel for appellant,
and Julie Schumer, via teleconference, counsel for respondent. Cause
ordered submitted.

Court adjourned.

Thursday, April 10, 2003 (continued)

Division Four

A098389 -- Emilio Guerrero v. Jimeno Rodriguez.

The judgment is affirmed. Rodriguez's request for sanctions is denied.
Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

**A101580 -- Robert P. v. The Superior Court of Contra Costa County.
Contra Costa County Department of Children And Family Services, R.P.I.**

The petition for extraordinary writ is denied on the merits. (§ 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 39.1B(o); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) The stay previously ordered by this court on March 24th, 2003, is dissolved forthwith and our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, April 11, 2003

Division Two

A098438 -- In re Jerry B., a Person Coming Under the Juvenile Court Law. The People v. Jerry B.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A098011 -- The People v. Debi Lynn Zuver.

By the Court: The petition for rehearing is denied. Corrigan, Acting P.J.

Division Four

A099579 -- In re Christopher H., et al., Persons Coming Under the Juvenile Court Law. Contra Costa Bureau of Children and Family Services v. Deborah H.

The judgments are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A101737 -- Orrick Herrington & Sutcliffe, LLP, et al. v. The Superior Court For the City and County of San Francisco; Michael A. Malcom, R.P.I.

Let a peremptory writ of mandate issue directing the respondent court to vacate its order filed January 22, 2003, denying Orrick's motion for summary judgment, or, in the alternative, summary adjudication. The court shall issue a new order denying summary judgment, but granting summary adjudication in favor of Orrick on Malcom's professional negligence and breach of fiduciary duty claims. Orrick shall recover its costs for this petition. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Certified for Publication.)

Friday, April 11, 2003 (continued)

Division Five

**A100194 -- Sierra Club et al. v. California Coastal Commission;
Catellus Residential Group, R.P.I. and Respondent.**

The judgment is affirmed. The stay issued October 10, 2002, is dissolved. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Certified for Partial Publication.)

A099059 -- The People v. Joel Thomas Vinatieri.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Monday, April 14, 2003

Division One

A097110 -- Max Cossman v. Daimlerchrysler Corporation et al.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A099784 -- In re the Marriage of Clair Hadley and William Howard Levine.

The order upholding the validity of the Agreement, and denying Wife the remedy of rescission, is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A100485 -- The People v. Miguel Rafael Canceco Espinoza.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Certified for Publication.)

Division Two

A099833 -- Mario R. Juarez v. Boy Scouts of America et al.

We dismiss the appeal without reaching its merits for lack of appellate jurisdiction. Juarez is awarded his costs on appeal. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A091076 -- The People v. Gaylin Lynn Burleson.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

A100015 -- The People v. Eric Nathaniel Glebow.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Monday, April 14, 2003 (continued)

Division Five

A100757 -- In re Darryl D., a Person Coming Under the Juvenile Court Law. The People v. Darryl D.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code section 602 and placing him at the county boys' ranch is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, April 15, 2003

Division One

A097319 -- Rodolfo Velasquez et al. v. Juan Jose Tellechea et al.

The judgment of dismissal is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A098850 -- The People v. Frank Berry, Jr.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A098320 -- The People v. Jason R. Meeks.

A100415 -- In re Jason R. Meeks, on Habeas Corpus.

The judgment is affirmed and the petition for a writ of habeas corpus is denied. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A096705 -- The People v. Brent Lee Harding.

The judgment is affirmed as to the conviction for burglary of the Gamble residence and reversed as to convictions for burglaries of the Health and Arbogast residences. The case is remanded for resentencing. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A099061, A100046 -- Allan M. Berland, etc., et al. v. Ralph I. Miller et al.

The purported appeal from the order granting the motion to enforce is dismissed. The judgment is affirmed. Defendants shall recover their costs of appeal. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, April 15, 2003 (continued)

A097358 -- The People v. Michael Lamont Bourgeois.

A098013 -- The People v. Robert Amosis Morgan.

The judgments are affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J.
(Not for Publication.)

Wednesday, April 16, 2003

Division One

A099839 -- In re the Marriage of Kathleen Gaughen (Cordi) and Roger D. Cordi.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A090520 -- Rose Mitchell v. Holly Sugar Corporation.

The order awarding costs and expert witness fees is affirmed. Defendant's cross-appeals are dismissed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A099339 -- The People v. Ranger Insurance Co., et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

A101847 -- Wendell S. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition for extraordinary writ is denied on the merits. The section 366.26 hearing is set for June 4, 2003. Therefore, this petition is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A097086 -- Victoria Reisinger et al. v. Terra Linda Development Company, LTD., et al.

The judgment is affirmed and the respondents shall have their costs on appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, April 16, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J. and S. Graham, Deputy Clerk.

A093248 Raquel Rodriguez
A093250 v.
A094812 County of Solano
Causes called and argued by Gaspar Roberto Garcia, counsel for appellants and J. Scott Smith and Kathleen Williams, counsel for Respondent. Causes ordered submitted.

A099448 Mark Gainer
v.
Linda Nolan
Cause called and argued by Forden Athearn, counsel for appellant and Daniel Payne, counsel for respondent. Cause ordered submitted.

A096946 Belinda Von Tonder, et al.
A097317 v.
Chevron Corporation, et al.
Chevron Fire Cases
Causes called and argued by Elizabeth Cabraser, counsel for appellants and Craig Stewart, counsel for respondents. Causes ordered submitted.

Court recessed until 1:30 p.m.

The Court reconvened at 1:30 p.m. Present: Kline, P. J., Lambden, J., Ruvolo, J. and S. Graham, Deputy Clerk.

A098062 The People
v.
Wade M.

Cause called and argued by Ted Cassman, counsel for appellant and Ryan McCarroll, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A098284 Estate of Rufina Abellan, Deceased.
Rizalina Abellan
v.
Roseller Abellan
Cause called and argued by Rizalina Abellan, appellant in propria persona and Gary Lieberman, counsel for respondent. Cause ordered submitted.

A096451 Stephen J. Barrett, et al.
v.
Hulda Clark, et al.
Cause called and argued by Christopher Grell, counsel for appellants and Mark Goldowitz, counsel for respondents. Cause ordered submitted.

A097703 Insurance Commissioner
v.
Golden Eagle Insurance Company
Cause called and argued by Stacey Pratt, counsel for appellant and Robert Owens, counsel for respondent. Cause ordered submitted.

A097691 Airport Parking Services, Inc.
v.
City of San Bruno
Cause called and argued by James Wagstaffe, counsel for appellant and Andrea Saltzman, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, April 17, 2003 at 9:30 a.m.

Wednesday, April 16, 2003 (continued)

Division Four

A098165 -- The People v. Tommy Neal Davis.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A093413 -- Augusta Ferris et al. v. Gatke Corporation.

By the Court: The written opinion which was filed on March 28, 2003, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Kay, P.J.

A100444 -- In re Camerin H., a Person Coming Under the Juvenile Court Law. The People v. Camerin H.

The order of commitment is modified to specify that the maximum period of confinement as required by Welfare and Institutions Code section 726 shall not exceed 12 months. As so modified, the order is affirmed. Kay, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Thursday, April 17, 2003

Division One

A097670 -- Estate of Norman O. Jenssen, Deceased.

The judgment is affirmed. Costs on appeal are awarded to respondents. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A096604 -- Harvest Church et al. v. City of Concord et al.

The judgment is reversed and the matter is remanded to the trial court with directions to deny Harvest's petition for writ of mandate. The trial court shall enter judgment consistent with these instructions. Costs are awarded to the City. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A098511 -- Sam Ferris v. Employment Development Department.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A097428 -- The People v. James E. Foster.

The order extending commitment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A098205 -- The People v. Barbara Ellen Hill.

The conditions of probation recited in the trial court's minute order are modified to delete the condition that appellant pay the costs of probation supervision. However, the order that appellant pay such costs is affirmed. As so modified, the judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A098280 -- The People v. Charles Robert Schneider.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, April 17, 2003

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A091044 The People
 v.
 Edward Kennedy
Cause called and argued by Juliana Drous and Michael Burt, counsel for appellant and Michael Chamberlain, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091583 The People
 v.
 Darrell Hunter
Cause called and argued by Philip Brooks, counsel for appellant and John Vance, Deputy Attorney General, counsel for respondent. Counsel for appellant granted 15 days in which to submit a supplemental declaration. Attorney General granted 5 days thereafter in which to respond, whereupon the cause will stand submitted.
- A098908 San Francisco Baykeeper
 v.
 California State Water Control Board
 City of Petaluma, et al.
Cause called and argued by Michael Lozeau and Ronald Fein, counsel for appellant and Clifford T. Lee and Robert C. Thompson, counsel for respondents. Cause ordered submitted.
- A096750 Paul Preston
 v.
 Town of Corte Madero

Cause called and argued by John E. Sharp, counsel for appellant and Peter Brekhus, counsel for respondent. Cause ordered submitted.

A099697 U. S. Bank National Association

v.

Linda Harrington

Cause called and argued by Thomas Finlay, counsel for appellant and John Boessenecker, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, April 17, 2003 (continued)

Division Four

A098585 -- The People v. Brandon E. Groves.

The Court: The request of counsel for respondent for partial publication of this court's March 20, 2003, opinion is granted and it is hereby ordered that said opinion, with the exception of parts I. and III., be published in the Official Reports. Sepulveda, Acting P.J. (Certified for Publication.)

A100169 -- Loli Victoria Wang v. Jackie Lam.

The Court:* The order of dismissal is reversed. The parties shall bear their respective costs of appeal. (Not for Publication.)

*Kay, P.J., Sepulveda, J. and Rivera, J.

Division Five

A092932 -- The People v. Charles Lee Craft.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A099603 -- The People v. Edgar Martinez.

The judgment of conviction and sentence are affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Friday, April 18, 2003

Division One

A097213 -- The People v. Fred Anthony Montoya.

We affirm the judgment. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A098936 -- The People v. Michael A. Danna.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A101177 -- In re Austin G., a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Charles G.

Father's notice of appeal, which was filed 61 days after the court pronounced its order in open court in the presence of father's counsel, was untimely. Accordingly, we hereby dismiss the appeal. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

A098510 -- In re Cajun C. and Camerlee C., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Children & Family Services v. Cajun C., et al.

A098845 -- In re Cameron C. and Colby C., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Children & Family Services v. Cameron C. et al.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

Friday, April 18, 2003 (continued)

A094514 -- The People v. Sergei Korolev.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J.
(Not for Publication.)

Monday, April 21, 2003

Division One

A099412 -- The People v. David Chavira Rivers.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A100304 -- The People v. Gerrod Lonzell Herndon.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A099919 -- Leonard P. Beuth v. Coastside County Water District et al.

Pursuant to the stipulation of the parties, the summary judgment is reversed. The superior court is directed to set aside the judgment and dismiss the action with prejudice. The remittitur is to issue immediately. Each party shall bear its own costs on appeal. Corrigan, J. We concur: McGuiness, P. J., Pollak, J. (Not for Publication.)

Division Four

A102244 -- Burns International Services Corporation v. The Superior Court of the City and County of San Francisco; Harold Holder et al., R.P.I.

Let a peremptory writ of mandate issue directing the respondent court to vacate its order of April 3, 2003, taking Burns's motion for summary judgment off calendar. The court shall hear that motion as expeditiously as possible, based on the papers already submitted by the parties. The stay of trial previously imposed by this court is dissolved. If trial is required, it should follow the hearing on the summary judgment motion as soon as possible. Burnes shall recover its costs for this petition. (Cal. Rules of Court, rule 56.4.) This opinion is final forthwith. (Cal. Rules of Court, rule 24(b)(3).) Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Monday, April 21, 2003 (continued)

Division Five

**A101708 -- Catalina P. v. The Superior Court of Sonoma County;
Sonoma County Department of Human Services, R.P.I.**

The order to show cause is discharged, and the petition is denied on its merits. (Cal. Const., art. VI, § 14; Cal. Rules of Court, rule 39.1B(o); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) The request for stay is also denied. Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26.

(§ 366.26, subd. (1).) Because the section 366.26 hearing is set for May 22, 2003, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Gemello, J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Tuesday, April 22, 2003

Division Three

A098476 -- Donald C. Marro, et al. v. William Ziegler, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A100384 -- Norm Riisma-Noyola v. Myrna Riisma.

The August 2002 order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A100693 -- The People v. William Patrick Dolan.

The order denying the motion to suppress is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A099201 -- In re the Marriage of Steven M. Hamilton and Jammie L. Hamilton.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A101021 -- Ronald Sanchez et al. v. Augusto Dela Cruz.

The judgment against defendant Augusto Dela Cruz is reversed and remanded to the trial court for further proceedings consistent with this opinion. The parties are to bear their own costs incurred on appeal. The remittitur shall issue forthwith. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Wednesday, April 23, 2003

Division One

A098415 -- Stefan E. Cheresnik v. City and County of San Francisco et al.

We reverse the portion of the judgment dismissing the fourth cause of action of the plaintiff Harman and affirm the judgment as it applies to other plaintiffs and causes of action. Both parties are to bear their own costs on appeal. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A098463 -- The People v. Darrell Courtney.

The judgment is reversed and the case remanded to the trial court for a trial on the issue of appellant's sanity at the time of the commission of the four offenses for which he was convicted. If he is found sane, the present judgment and sentence should be reinstated. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A097941 -- The People v. Rodney W. Henson.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A098120 -- Jerry Regan v. David S. Levine.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A097282 -- In re Julian W., a Person Coming Under the Juvenile Court Law. The People v. Julian W.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Wednesday, April 23, 2003 (continued)

Division Four

A099362 -- The People v. Alfredo Ortiz.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J.
(Not for Publication.)

Division Five

**A097827 -- In re Crystal B., a Person Coming Under the Juvenile
Court Law. San Mateo County Human Services Agency v. Jessie C.**

The appeal is dismissed as untimely. Stevens, J. We Concur: Jones, P.J.,
Simons, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

DIVISION FIVE

Wednesday, April 23, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J.; Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A10019 Marcy Wong

1

v.

City Of Berkeley

Duane Stephens

Cause called and argued by Marcy Wong, appellant in pro per, and by Zach Cowan and James C. Nelson, counsel for respondents. Cause ordered submitted.

A09386 The People

9

v.

Matthew Lee Council

Cause called and argued by Geri L. Green, counsel for appellant, and by Amy Haddix, counsel for respondent. Cause ordered submitted.

A09734 The People

9

v.

Daniel Patrick Hard

Cause called and argued by Joseph G. Baxter, counsel for appellant, and by John R. Vance, Jr., counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Stevens left the bench and Justice Gemello took his place.

A09939 In re Christian B., a Person Coming Under the Juvenile Court Law

2

The People

v.

Christian B.

Cause called and argued by Frank S. Moore, counsel for appellant, and by Dorian Jung, counsel for respondent. Cause ordered submitted.

A09636 The People
9 v.
 Bryan Alexander
 Cause called and argued by Geri L. Green, counsel for appellant, and by Jeffrey
 M. Laurence, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Jones left the bench and Justice Stevens
took her place
as Acting Presiding Justice.

A09823 Isabel Jessup
7 v.
 Louis Stayer
 Cause called and argued by Isabel Jessup, appellant in pro per, appearing via
 teleconference, and by Craig E. Moody, counsel for respondent. Submission
 deferred.

Court recessed at 10 59 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Presiding Justice Jones presiding.

A10130 Bible Fellowship Missionary Baptist Church et al.
7 v.
 Timothy Hawkins
 Order to show Cause was called, Appellant Reverend A.Q. West appeared with
 counsel Matthew Webb.

Court adjourned at 1:51 p.m.

Thursday, April 24, 2003

Division One

A098794 -- Frederick Giordano v. Specialty Sales et al.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A094645 -- The People v. Larry Davis.

By the Court: The petition for rehearing is denied. Haerle, Acting P.J.

Division Three

A097724 -- The People v. Jerry Lee Hill.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Division Four

A098515 -- John Garamendi v. HIH America Compensation and Liability Insurance Company; Superior Access Insurance Services, Inc.

The trial court's order is reversed. The Commissioner's application for an order to show cause shall be dismissed without prejudice to the filing of a legal action to recover any and all monies owing to the estate of HIH. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Friday, April 25, 2003

Division Three

Friday

A098151 -- The People v. Ramon Quiroz.

Judgment affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J.
(Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Friday, April 25, 2003

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Parrilli, J., Pollak, J., and I. Calanoc, Deputy Clerk.

A095574	City and County of San Francisco, v. George Applegate et al., McGuiness, P.J. announced that the panel for this case is comprised of Parrilli, J., Pollak, J. and McGuiness, P.J. Cause called and argued by George Applegate, counsel for appellants, and Ernest Llorente, counsel for respondent. Cause ordered submitted.
A098396	Kids Against Pollution et al., v. California Dental Association. McGuiness, P.J. announced that the panel for this case is comprised of Parrilli, J., Pollak, J., and McGuiness, P.J. Cause called and argued by Fletcher Alford, counsel for appellant, and Shawn Khorrami, counsel for respondents. Cause ordered submitted.
A093398	The People, v. Carol Mardeusz. The panel for this case is comprised of Corrigan, J., Parrilli, J. and Pollak, J. Cause called and argued by Mark Greenberg, counsel for appellant, and Catherine Rivlin, counsel for respondent. Cause ordered submitted.
A100121	Winslow Rouse, v. Jeannine Deer. McGuiness, P.J. announced that the panel for this case is comprised of Corrigan, J., Parrilli, J. and McGuiness, P.J. Cause called and argued by Frank Debenedetto, counsel for appellant, and respondent in pro per Jeannine Deer. Cause ordered submitted.

A097569	<p>Rosemary Oster et al., v. Borg-Warner Corporation, now known as Burns International Services Corporation. The panel for this case is comprised of Corrigan, J., Parrilli, J., and Pollak, J. Cause called and argued by Bryce Anderson, counsel for appellants, and Daniel Alweiss, counsel for respondent.</p>
	COURT ADJOURNED

Friday, April 25, 2003 (continued)

Division Four

A092551 -- Bernie Chavers et al. v. Gatke Corporation.

The opinion filed March 28, 2003, is modified as follows: In the fourth paragraph under FACTUAL BACKGROUND, the final word of the third sentence should be changed from “defendants” to “defendant.” The above modification does not effect any change in the judgment. Kay, P.J. (Certified for Publication.)

A100366 -- The People v. Jonathan Marshall Fine.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A099453 -- Alliance For A Better Downtown Milbrae et al. v. Cheryl Mitchell Wade.

The judgment is affirmed. In the interests of justice, each side shall bear its own costs. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Certified for Publication.)

A096221 -- Ruth G. Holloway-Garcia v. Paula A. Brown; Lyle C. Cavin, Jr., et al.

The judgment is affirmed. Costs on appeal shall be awarded to defendants Paula A. Brown and to Lyle C. Cavin, Jr. and the Law Offices of Lyle C. Cavin, Jr. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Friday, April 25, 2003 (continued)

**A099309 -- Barbara San Martin v. Antioch Schools Federal Credit
Union et al.**

The summary adjudication of the second cause of action is reversed. The judgment is otherwise affirmed. The parties shall bear their own costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Monday, April 28, 2003

Division One

A099511 -- The People v. Steven Michael McNeil.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A094445 -- The People v. Teresa Renee Nelson.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A097789/A098647 -- City of Oakland v. Riley & Sons Construction, Inc.

We affirm in Appeal No. A097789 and Appeal No. A098647. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A095574 -- City and County of San Francisco v. George Applegate et al.

The permanent injunction and judgment is affirmed as to the trial court's liability findings regarding the public nuisance and unfair business acts causes of action, the City's entitlement to a permanent injunction abating the public nuisance, and the award of attorney's fees, as set forth in Paragraphs 1 through 6, N., O., and Exhibit C of the judgment. The terms and conditions of the permanent injunction in Paragraphs A. I, A. II, A. III, B., C., D., F., G., H., I., J., P., Q. and Exhibit A of the judgment are affirmed. The terms and conditions of the permanent injunction in Paragraph E. and Paragraphs K., L., M. and Exhibit B of the judgment are reversed. The matter is remanded to the trial with directions to modify its permanent injunction and judgment by (1) redrafting Paragraph E. to include a reference to Civil Code section 1942.5; and (2) if warranted, awarding civil penalties under the San Francisco Building and Housing Codes and section 17206 of the Business and Professions Code. The parties are to bear their own costs on appeal. McGuinness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Monday, April 28, 2003 (continued)

A093398 -- The People v. Carol Mardeusz.

The conviction on count two for violation of section 278.5 is reversed. In all other respects, the judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A099126 -- The People v. Liza Desiree Stephens-Miner.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Division Four

A098226 -- John Garamendi, as Insurance Commissioner, etc., Golden Eagle Insurance Corporation v. Michael Cogan.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A100919 -- Marjorie Haake et al. v. San Mateo County et al.

The appeal is dismissed. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A096369 -- The People v. Bryan Alexander.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Tuesday, April 29, 2003

Division One

A096365 -- The People v. Samuel Horace Tucker.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A097737 -- Hillsboro Properties v. Public Utilities Commission; Robert Hambly et al., R.P.I.

A098327 -- Western Manufactured Housing Community Association v. Public Utilities Commission; Robert Hambly et al., R.P.I.

The Court: It is ordered that the opinion filed on April 1, 2003, has now been certified for publication pursuant to rule 976(b) of the California Rules of Court, and it is ordered published in the official reports. Haerle, Acting P.J. (Certified for Publication.)

Division Three

A100945 -- The People v. Norbert Glen Flores.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A095644 -- The People v. Garrett Martin.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A097748 -- The People v. Eric Dwayne Perry.

Judgment affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Tuesday, April 29, 2003 (continued)

Division Four

A094038 -- The People v. Jose Escamilla.

A094085 -- The People v. Ruben S. Escobar.

The judgments are affirmed. Kay, P.J. We Concur: Reardon, J.,
Sepulveda, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, April 29, 2003

The Court convened at 9:30 a.m. at its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J. and Rivera, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A099565 People
 v.
 Michael Kuppferman
Causes called. Christine Levin argued on behalf of appellant Kuppferman. Deputy Attorney General Allan Yanow argued for respondent. Causes submitted.

At this point the Court reconstitutes itself from Reardon, Acting P.J., Sepulveda, J. and Rivera, J. to Kay, P.J., Reardon, J. and Rivera, J.

A098439 People
 v.
 Christopher J.
Cause called. Karen Balacek argued for appellant Christopher J. Deputy Attorney General Seth Schalit argued for respondent. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Reardon, J. and Rivera, J. to Kay, P.J., Reardon, J. and Sepulveda, J.

A099344 Ampex Corporation et al.
 v.
 Scott Cargle
Cause called. Certified law student Erica Platt, supervised by Jennifer Garnick, argued for appellant Cargle. Michael Prough argued for respondents. Cause submitted.

At this point the Court reconstitutes itself from Kay, P.J., Reardon, J. and Sepulveda, J. to Kay, P.J., Sepulveda, J. and Rivera, J.

A095771 The Snelling Company, LLP
v.
Calprop Corporation et al.
Cause called. Donald Drummond argued for appellant The Snelling
Corporation. Arthur Brunwasser argued for respondent. Cause submitted.

The Court adjourned at 10:31 a.m.

Tuesday, April 29, 2003 (continued)

Division Five

A100710 -- The People v. Jose Ramon Barajas.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A099594 -- In re Ashley M., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Ronnie M. et al.

The order is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A097381 -- The People v. David Washington.

The judgment is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A100615 -- The People v. Junior Williams.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Gemello, J. (Not for Publication.)

A100191 -- Marcy Li Wong v. City of Berkeley, Duane Stephens, R.P.I. and Respondent.

The judgment is affirmed. The City is awarded costs on appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Wednesday, April 30, 2003

Division One

A097110 -- Max Cossman v. Daimlerchrysler Corporation et al.

The Court: Order Modifying Opinion and Certifying Opinion for Publication. It is ordered that the opinion filed herein on April 14, 2003, be modified as follows: (See order.) Respondents' request for publication filed on April 23, 2003 is granted. The opinion in A097110 is hereby certified for publication as modified above. Marchiano, P.J. (Certified for Publication.)

Division Two

A100987 -- The People v. Corey D. Briggs, Sr.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A098436 -- The People v. Gregory Lawrence Copeland.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A089623 -- The People v. Clemeth Ray Castille et al.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Certified for Partial Publication.)

A100121 -- Jeannine Deer v. Winslow C. Rouse.

The order dated August 9, 2002 is affirmed. The appeal from the orders dated May 12, 2000 and May 19, 2000 is dismissed. Each party shall bear their own costs on appeal. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A097514 -- The People v. Jackie Lynn Morrow.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Pollak, J. (Not for Publication.)

Wednesday, April 30, 2003 (continued)

A097569 -- Rosemary Oster et al. v. Borg-Warner Corporation, now known as Burns International Services Corporation.

The order granting a stay is vacated and the matter is remanded to the trial court. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A098887 -- In re Arely R., et al., Persons Coming Under the Juvenile Court Law. Marin County Department of Health and Human Services v. Alejandra R.

The May 13, 2002, orders denying Alejandra R.'s section 388 petition and terminating her parental rights are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A098516 -- The People v. Jim Donald Smith.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A097210 -- The People v. Larry D. Young.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A099344 -- Ampex Corporation et al. v. Scott Cargle.

The order denying appellant's motion for attorney fees is reversed and remanded with direction to rule on the motion in accordance with the views expressed in this opinion. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A100306 -- The People v. Jose Luis Godoy Gallegos.

The order revoking appellant's probation is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Wednesday, April 30, 2003 (continued)

A098439 -- In re Christopher J., a Person Coming Under the Juvenile Court Law. The People v. Christopher J.

The juvenile court's disposition order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A098774 -- The People v. Gail Marie Lyons.

The judgment is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A095953 and A098766 -- The People v. Angel Arias.

In A095953 (*Arias I*), the trial court's denial of defendant's motion to discharge his counsel is reversed and the case is remanded for appointment of new counsel, for resentencing, and for any further proceedings consistent with this decision. In all other respects, the judgment is affirmed. In appeal A098766 (*Arias II*), the appeal is dismissed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

A099392 -- In re Christian B., a Person Coming Under the Juvenile Court Law. The People v. Christian B.

The dispositional order is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A093869 -- The People v. Matthew Lee Council.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)